



Specialty Independent Review Organization, Inc.

December 31, 2004

Hilda Baker
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M2-05-0156-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Medical Doctor who is board certified in Anesthesiology and Pain Management. The reviewer is on the TWCC ADL. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

The patient is a 42-year-old male who works as firefighter and suffered a work injury on _____. His mechanism of injury was lifting chairs off of a table and twisting to set them on the ground. At the time of his injury, the patient had already two-documented work injuries to the lumbar spine, as noted in the medical records provided. Since this new injury occurred, the patient has referred stabbing pain in the low back that has not decreased in intensity from the original 4/10. His original complaint of pain, per the patient's subjective form on 07-13-04, reports a level of 4/10 with occasional stabbing pain that interfered with his ability to work. He referred sitting, standing, bending and lifting all aggravate his pain level. The patient then underwent physical therapy and prescription medications. He later underwent diagnostics that include an MRI and a Bone Scan. The Bone scan of 12-13-04 that reports increased uptake in shoulders and activity in urological system. MRI of lumbar spine of 07-30-04 reports an unremarkable lumbar MRI.

The patient underwent a psychological evaluation as preparation for his work hardening program. Rick Moses, PhD, conducted this and he reports that his previous job injury is of ____ to the cervical spine. In summary, the evaluator diagnosed the patient with pain disorder with psychological and physical factors, acute adjustment reaction with anxious mood and tension headache. He states that the patient is a good candidate for the work-conditioning program and that he should be referred to an ophthalmologist for evaluation of visual changes.

Beyond this, there is no summary of passive / active physical therapy modalities or more importantly his progress through this initial phase of treatment in the first six weeks. Only some scattered notes were provided, but no rationale for work hardening based on his clinical response to current treatment. The only basis for the work conditioning is apparently based on his functional capacity evaluation reports.

The FCE report of 08-11-04 by Priscilla Barrera states that the patient's PDC (physical demand capacity) is VERY HEAVY with infrequent lifting (in lbs.) in excess of 100, frequent 50-100 and walking 3.5 mph carrying 50+ loads. He qualifies, but is not safe for repetitions of 70 infrequently, 33 frequently and 14 constantly. His safe recommended is infrequent of 56 and frequent lifting of 26 and constantly of 11. Therefore, he can currently perform at an average of 79% of his recommended work capacity. According to this FCE/ FCE summary, the significant medical history is "none", but patient has a previous work injury to the low back with active treatment as late as October 2003.

Surveillance report of 08-16-04 reports the patient assisted in the loading/ unloading of a calf onto a trailer. The patient also unhooked the trailer from the pickup truck unassisted.

Next, there is an IME report of 11-19-04 by Dr. Nowlin. The patient is currently on light duty with no heavy lifting. He is on home physical therapy and prescription medications of Ultram, Flexeril and Ibuprofen. He reports previous injuries of 10-15-02 to upper back due to re-injury and cervical herniation noted and mention of another injury of 04-21-04. In addition, the patient was hospitalized for a back injury in April 2002. He has undergone physical therapy and work hardening for these injuries. The patient states that he continues with symptoms of upper back, neck and left shoulder. Dr. Nowlin had available two videotapes of patient surveillance. One of the tapes did present a gentleman that was confirmed as the patient in question. In this tape, he is seen wearing a narrow back brace. He was seen assisting in the loading and transporting of a calf / cow with a trailer. He was seen bending, stooping, and lifting uncharacteristic of a patient limited by back pain. Dr. Nowlin's only physical finding was a possible scoliosis with related muscle spasms; however the scoliosis is not compensable. He also reports an SLR was slightly decreased to 72. He concludes that the patient presents with no lumbar restriction and no guarding of the back during the videotape. He recommended no further treatment and no medical need to continue treatment. Dr. Nowlin's only recommendations were a bone series for evaluation of the scoliosis and patient return to work without restrictions.

Records reviewed include the following: physical therapy notes, FCE report, psychological evaluation, surveillance report, denial letters and rebuttal letters. There is also documentation

submitted by the requestor in reference to this same patient's treatment during previous work related injuries. From the reviewer's understanding, this data would be irrelevant to the proposal at hand.

Additional records were later received from Specialty IRO "from the patient" on 12/23/04 that included: MRI lumbar spine, physical therapy notes, pre-authorization denials, IME report, and a Bone Scan report. Also included was weekly work hardening summaries dated 09-02-03 through 10-17-03, which would apply to a previous injury.

REQUESTED SERVICE

The item in dispute is the prospective medical necessity of work hardening and work conditioning as prescribed by the treating physician.

DECISION

The reviewer agrees with the previous adverse determination.

BASIS FOR THE DECISION

The reviewer states that there is not sufficient medical necessity established to approve this request. Given the patient's mechanism of injury, he should have suffered a simple lumbar strain which should have been resolved 8 weeks post injury. The patient's current case is compounded by previous work injuries with established lumbar disc pathology, in addition to cervical and thoracic injuries, for which he has received appropriate treatment including a previous work hardening program that targeted the same anatomical region.

The requestor's reconsideration letter states that the patient's current abilities do not match his job restrictions and re-conditioning is not the focus of the work-conditioning program. At this stage, with all medical probability a work-conditioning program will not physically benefit this patient. The patient has previous lumbar injuries that were more significant than his current lumbar strain and his current work injury does not warrant the necessity of a work-conditioning program. The work injury of ___ is not his limiting factor in working to full capacity. From a pathological standpoint, the patient does not present with any significant pathology on his MRI to substantiate treatment beyond the scope of a lumbar sprain/strain. There is no mention of any subjective or clinical radicular symptoms or any other complaints beside localized lumbar pain.

In addition to all this, the patient was videotaped realizing activities that were not limited with his back pain. Unfortunately, these are not available for review and this surveillance report is certainly not the main factor in the denial of this request.

A work-conditioning program is not necessary for the patient to return to work at full duty in another capacity. He is certainly capable of moderate physical activity and given his history of multiple work injuries, he could be a candidate for retraining. There is some confusion regarding the reports of his job description since all four of the FCE reports provided have different lifting requirements in all categories of occasional, frequent and constant. The possibility exists that his job description has changed; however his job requirements have changed dramatically in regards to lifting weight and there are some inconsistencies at this level. If in fact his job description has changed, then they appear to be very accommodating and could alter his duties to his current limitations.

The FCE dated 12-31-02 reports treatment for lumbar disc pathology from DOI of ____ and the patient was performing at 79% capacity of these requirements. The FCE of 08-06-03 reported a thoracic, shoulder and lumbar injury while pulling large hoses at work and he again performed at 78% capacity of these stated requirements. The FCE of 10-20-03 referred treatment for a lumbar disc pathology from work injury of ____ and he performed once again at 80% capacity. His physical capacity is then quite consistent throughout all the FCE reports. His current FCE also reports the 79% current capacity level.

In summary, this case presents a patient with an injury of ____ that would substantiate a possible lumbar strain / sprain injury. Presumably, he has undergone passive and active modalities of physical therapy for the traditional 8 weeks in addition to pain medication. He presents with no significant pathology on his diagnostics or clinical evaluations to justify further extensive physical therapy such as the proposed work-conditioning program. Nonetheless, a work-conditioning program is certainly not warranted to maintain this gentleman in an active work capacity and not medically necessary in relation to his work injury of ____.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

____, CEO

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

In the case of prospective ***spinal surgery*** decision, a request for a hearing must be made in writing and it must be received by the TWCC Chief Clerk of Proceedings within **10** days of your receipt of this decision. (20 Tex. Admin. Code 142.5(c)).

In the case of other ***prospective (preauthorization) medical necessity*** disputes a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5(d). A request for a hearing should be sent to: Chief Clerk of Proceedings, Texas Worker's Compensation Commission, P.O. Box 17787, Austin, TX 78744. The fax number is 512-804-4011. A copy of this decision should be attached to the request.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute, per TWCC rule 133.308(u)(2).

Sincerely,

____, CEO

I hereby certify, in accordance with TWCC Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the carrier, requestor, claimant (and/or the claimant's representative) and the TWCC via facsimile, U.S. Postal Service or both on this ____31st____ day of _December_, 2004 __

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: